©

GOVERNMENT OF KERALA
1969

Regd. No. K. 107

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XIV] Trivandrum, Friday, 26th December 1969 / 5th Pousha 1891 [No. 304

LEGISLATURE SECRETARIAT

NOTIFICATION

No. 6886/LA7/69. *Dated, Trivandrum, 26th December 1969.*

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1969.

L. A. Bill No. 45 of 1969

THE KERALA PLACES OF PUBLIC RESORT (VALIDATION OF LEVY AND COLLECTION OF LICENCE FEE) BILL, 1969

A

BILL

to validate the levy and collection of certain licence fee under the Kerala Places of Public Resort Act, 1963.

Preamble.—WHEREAS it is expedient to validate the levy and collection of certain licence fee under the Kerala Places of Public Resort Act, 1963 and the Rules issued thereunder;

BE it enacted in the Twentieth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Places of Public Resort (Validation of Levy and Collection of Licence Fee) Act, 1969.

2. *Validation of levy and collection of licence fee.*—(1) Notwithstanding anything contained in sub-section (1) of section 7 of the Kerala Places of Public Resort Act, 1963 (40 of 1963), rule 28 of the Kerala Places of Public Resort Rules, 1965, as it stood before the amendment issued under notification S.R.O. No. 59/69 dated 27th January 1969, in so far as it relates to the levy and collection of licence fee by the licensing authority shall be deemed to have been issued in accordance with law and the rates fixed under the said rule shall be deemed to be, and to have been, the rate of fee directed by the Government by rule under the said Act with effect on and from the 1st day of August, 1965, and upto and inclusive of 10th day of February, 1969.

(2) Notwithstanding anything contained in any judgment, decree or order of any court to the contrary, all fees levied or collected or purported to have been levied or collected in pursuance of the rule referred to in sub-section (1) shall, for all purposes, be deemed to be and to have always been validly levied, or collected and accordingly:—

(a) all acts, proceedings or things done or taken by the licensing authority in connection with the levy or collection of licence fee shall, for all purposes be deemed to be, and to have always been, done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any court against the Government, the local authority or any person or authority whatsoever for the refund of any fees so paid; and

(c) no court shall enforce any decree or order directing refund of any fees so paid.

STATEMENT OF OBJECTS AND REASONS

Section 7 of the Kerala Places of Public Resort Act, 1963, lays down that the fee for the grant of licence to use any place or building as a place of public resort or entertainment shall be such as the Government may by rule direct. But in rule 28 of the Kerala Places of Public Resort Rules, 1965 the Government have not directed the exact amount of fee that should be levied in regard to a particular kind of place. The rule only stipulates the maximum and minimum within which discretion is granted to the licensing authority to fix the licence fee. The Kerala High Court has therefore in its judgment on certain writ petitions filed by some cinema proprietors held that the exercise of the powers of fixing the licence fee by the licensing authority under rule 28 of the Kerala Places of Public Resort Rules, 1965, within the maximum and minimum fixed by the Government amounts to a further delegation by the delegatee and the rule has therefore been declared as ultravires. The rule has since been amended to set right the infirmity pointed out by the High Court. But in order to validate the levy and collection of licence fee under the rule before it was amended, legislation is necessary. This Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation would not involve any expenditure from the Consolidated Fund of the State.

K. AVUKADERKUTTY NAHA.